

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GREGORY THOMAS,

Plaintiff,

V.

DOUG WADDINGTON *et al.*,

Defendants.

Case No. C05-5495RBL

**ORDER DIRECTING PLAINTIFF TO
RE-NOTE HIS MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). The plaintiff has been granted leave to proceed *in forma pauperis*. (Dkt. # 10). The Court has just ordered this action served on 10 of the 11 named defendants. Plaintiff's motion for a temporary restraining order and preliminary injunction goes directly to the merits of this action and is premature.

In this action plaintiff alleges a denial of adequate medical care for a bunion and hammer toe condition and he asks the court to order the defendants to pay for a surgery to correct the conditions. See, proposed complaint and motion for injunctive relief. (Dkt. # 1and 5). The motion for injunctive relief asks the court to order the defendants to provide for a course of medical treatment “designed

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1 to repair the foot and maintain full function of his feet.” (Dkt. # 5, page 1).

2 Plaintiff also asks the court to order an independent medical evaluation take place and that
3 defendants obtain a prescription “for a course of surgical intervention that will stop persistent pain
4 and restore full function of his feet.” (Dkt. # 5, page 2). Thus, the relief sought in the motions goes
5 directly to the merits of this action, the adequacy of the medical treatment provided.

6 As the case has just been ordered served and the defendant’s have not yet appeared, the
7 motion for injunctive relief of this nature is premature. The court **ORDERS**:

- 8 1. Plaintiff may re-note his motions for injunctive relief after a defendant has been served
9 or has otherwise entered a notice of appearance.
10 2. The clerks’s office is directed to remove the motion, (Dkt. # 5), from the court’s
11 calendar.

12 DATED this 26th day of September, 2005.



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17 Karen L. Strombom
18 United States Magistrate Judge
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